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Southern Horizons: South Asia in the South Indian Ocean

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Alan D. Hemmings

Abstract

The paper examines facets of the emerging international regulatory structure largely around Regional Fisheries Management Organizations (RFMOs) in the South Indian Ocean sector of the 'Greater Southern Ocean', both north and south of the Antarctic Convergence. In the South Indian Ocean sector, apart from the Convention on the Conservation of Antarctic Marine Living Resources where India is a decision-making and Pakistan a non decision-making party, no South Asian state is a party to any operative RFMOs. Surprisingly, this non-participation includes the South Indian Ocean Fisheries Agreement. The paper reflects on the varying conceptions of the 'South Indian Ocean', particularly within Indian strategic discourse. It encourages critical thinking by South Asian social sciences scholars about framings, interests, and South Asian engagement in South Indian Ocean institutional development.

Keywords : Antarctica, Antarctic Treaty System, India, Pakistan, South Asia, South Indian Ocean, Regional Fisheries Management Organizations, marine living resources management

Alan D. Hemmings is Adjunct Associate Professor, Gateway Antarctica at University of Canterbury, New Zealand. Email: ahe30184@bigpond.net.au

Introduction

The focus of this paper is South Asia's (and particularly India's) engagement with Antarctica, but *not* with the continent that is ordinarily taken to mean 'the Antarctic'. Here it is the oceanic area that attracts our attention. The better biophysical, legal and geopolitical conception of Antarctica captures the entire continental, insular and oceanic area south of the circumpolar Antarctic Convergence or Polar Front (Antarctic Convergence here). It is within this oceanic area of Antarctica, and in a further oceanic band immediately to its north, that some of the greatest economic transformations – and as a result, geopolitical transformations – in the entire Antarctic region are presently occurring. These transformations include increasing levels and diversity of human activities associated with marine harvesting, tourism, maritime traffic and potentially minerals resource activities. This pattern of transformation is evident in the oceans of *both* polar regions (Dodds and Hemmings, 2015). This does not appear to be a transient event in regional terms; indeed such trends as are presently discernable appear likely to deepen and accelerate over the next decades. To a greater or lesser extent, these trends are evident all around Antarctica. But, for a variety of reasons which will be considered below, they appear currently most advanced in the South Indian Ocean region, and (at least to an outside observer) to present particular challenges there.

Strikingly, the activities now occurring in the oceanic area of Antarctica in the South Indian Ocean region, and the institutional development that both responds to and enables it, is only weakly engaged with by the states to the immediate north – the states of South Asia. South Asia is understood here as the states which are parties to the South Asian Association for Regional Cooperation, thus: Afghanistan, Bangladesh, Bhutan, India, Nepal, the Maldives, Pakistan and Sri Lanka (Cohen, 2015: 341). To an outsider, the presently limited engagement of South Asia in the South Indian Ocean region of Antarctica seems anomalous, given the profile of the Indian Ocean in the domestic and regional policy debate within Indian policy elites in particular (Karnad, 2015), and

increasingly at the international level. The latter includes both national strategic assessments (e.g. [US] National Intelligence Council 2012, [Australian] Defence Department 2016) – particularly in relation to concerns about Chinese 'expansion' into 'the Indian and Pacific Oceans' (Secretary of the Navy, 2015: 3) and popular coverage of the region (Kaplan, 2010). The present paper is intended as a modest opening of a discourse around what horizons South Asia, and India in particular, might have in the far south of the historically critical Indian Ocean if we are indeed to see 'a new cosmopolitanism in a postcolonial setting' (Bose, 2006: 282). It forms part of an ongoing and broader research project around the transformation of Antarctic politics (Hemmings, 2017) and what I have termed 'The Greater Southern Ocean' (Hemmings, 2016).

This Antarctic Convergence varies in its location around the Antarctic continent. In the South Pacific sector it occurs at 60° South (S.); in the South Atlantic at 50° S.; south of Australia at 55° S.; and in the South Indian Ocean (the particular focus of this paper) at 45° S. All these positions are approximations, since the Antarctic Convergence is a dynamic feature. These approximations to the position of the Antarctic Convergence are provided by the northern boundary of the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)¹, which is specifically defined in Article I of that convention, and illustrated in Figure 1 below showing the convention area.

The CCAMLR area reflects the historic significance of the Antarctic Treaty System (ATS) in the international governance of the Antarctic region. The ATS is anchored in the Antarctic Treaty of 1959, which provided an accommodation through its famous Article IV in relation to the various positions around unresolved territorial sovereignty situation on the Antarctic continent and islands south of 60° S.; gave parties open-access to all parts of

¹Convention on the Conservation of Antarctic Marine Living Resources, adopted in Canberra 20 May 1980, entered into force 7 April 1982, 1329 UNTS 48.

Antarctica; established a contingent demilitarization of, and obligation to peaceful purposes in, the entire area south of 60° S.; encouraged international cooperation; established science as both the primary mechanism of national presence and as the declaratory purpose of the international cooperation. Whilst initially involving only twelve states, membership has grown to include now twenty-nine decision-making Consultative Parties and twenty-four Non-Consultative Parties which are not involved in decision-making.² The 1959 treaty did not address resource issues, but the institutional architecture that it established has allowed subsequent and separate treatment of the resumption of commercial sealing, through the 1972 Convention on the Conservation of Antarctic Seals (CCAS);³ the 1980 CCAMLR already mentioned; the 1988 Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA)⁴, which was abandoned before coming into force and replaced by the 1991 Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol)⁵. For a recent substantive background on the ATS, see Ben Saul and Tim Stephens' introduction to their *Antarctica in International Law* (2015).

Whilst the 1959 treaty notionally applied to the entire area south of 60° S., there was uncertainty in relation to its capacity in these oceanic areas. Whilst Article VI of the treaty established that it should 'apply to the area south of 60 South Latitude, including all ice shelves', the same article then went on to say:

² A complete list of the Parties to the Antarctic Treaty is available at the Antarctic Treaty Secretariat website at http://www.ats.aq/devAS/ats_parties.aspx?lang=e (accessed July 19, 2016).

³ Convention for the Conservation of Antarctic Seals, adopted in London 1 June 1972, entered into force 11 March 1978, 1080 UNTS176.

⁴ Convention on the Regulation of Antarctic Mineral Resource Activities, adopted in Wellington 2 June 1988, never entered into force, 27 ILM 868.

⁵ Protocol on Environmental Protection to the Antarctic Treaty, adopted in Madrid 4 October 1991, entered into force 14 January 1998, 30 ILM 1455.

but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of rights, of any state under international law with regard to the high seas within that area.

These reservations around traditional high seas freedoms were seen as applying not only to other states which were not party to the Antarctic Treaty, but to the Parties themselves. Particularly in the context of the Cold War, nobody was prepared to assume a general waiver of high seas freedoms, even if within the Antarctic Treaty Area to which Parties had just agreed.

This is the reason why seals and later marine harvesting were not considered tractable within the Antarctic Treaty, and CCAS and CCAMLR were negotiated and adopted as separate instruments. The successive main conventions adopted after the Antarctic Treaty have therefore taken the ATS increasingly into the oceanic realm of the Southern Ocean. Whereas, CCAS, CRAMRA (had it entered into force) and the Madrid Protocol, like the Antarctic Treaty, have an identical area of application – the area south of 60° S. – CCAMLR's area of application is even greater, extending northward, as we have noted, to the Antarctic Convergence. Although all of the ATS main instruments in force (and a host of subsidiary agreements under these) may have application in the Southern Ocean, it is generally CCAMLR that is most significant in this respect. Not only does it apply to the larger area, but its focus (marine harvesting) is presently the dominant economic activity in the entire Antarctic region (its nearest competitor - tourism - is substantially less capitalised and still largely centred on the continent of Antarctica) and the primary resource activity that is covered by any instrument of the ATS. The other long term marine living resource activity, whaling, is subject to a separate International Convention for the Regulation of Whaling (ICRW) and its International Whaling Commission⁶, outside the ATS. Potential activities on the deep seabed would fall,

⁶ International Convention for the Regulation of Whaling, adopted in Washington DC 2 December 1946, entered into force 10 November 1948, 161 UNTS 72.

through the Law of the Sea Convention⁷, to the International Seabed Authority under Part XI of the Law of the Sea Convention⁸, which of course is also outside the ATS. Biological prospecting is not separately regulated under the ATS but it is subject to its generic obligations (see Joyner, 2012), and also subject to the Convention on Biological Diversity (CBD), although the jurisdictional lines between the ATS and CBD have not yet been clarified in the Antarctic.

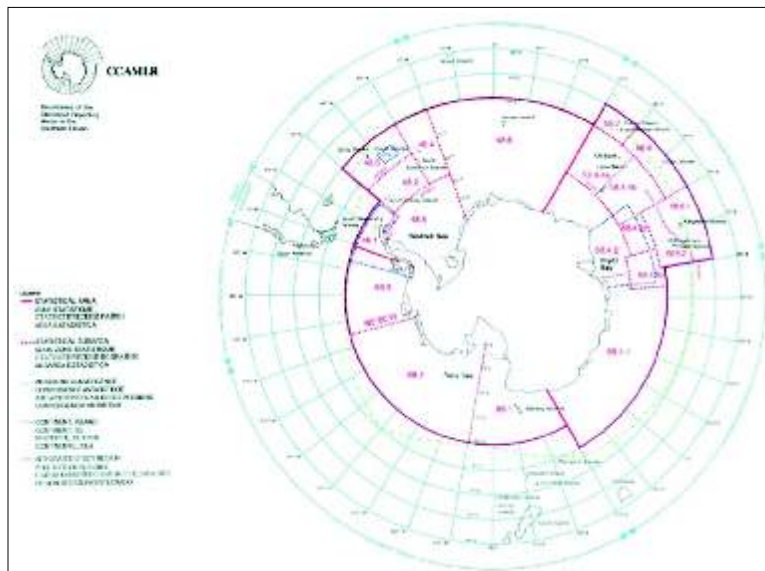


Figure 1: The CCAMLR Area

Source: CCAMLR Secretariat, <https://www.ccamlr.org/en/system/files/CCAMLR-convention-area-map-large.pdf>

⁷ United Nations Convention on the Law of the Sea, adopted in Montego Bay 10 December 1982, entered into force 16 November 1994, 1833 UNTS 397.

⁸ Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (Part XI Deep-Sea Mining Agreement, adopted in New York on 28 July 1984, entered into force 28 July 1996, 1836 UNTS 42,

Historically, the substantive regional regulatory structure of the ATS was bounded by a sort of *cordon sanitaire* in which little human activity occurred immediately north of the Antarctic Convergence. As a result, whilst key global instruments such as the Law of the Sea Convention clearly applied there, in practice there was so little activity that this was essentially moot. For the same reasons, there was little regional institutional development. Taxa-specific instruments addressing cetaceans (ICRW) and southern bluefin tuna (the Convention for the Conservation of Southern Bluefin Tuna (CSBT))⁹, whilst periodically exciting contention within their institutional context, were thematically isolated, and effectively decoupled from the ATS, even when one might have expected otherwise (Hemmings, 2006).

This picture has now significantly changed. First, we have seen the extension of fisheries into areas beyond national jurisdiction in the ocean space between the southern inhabited continents and Antarctica, and the associated adoption of major new Regional Fisheries Management Organizations (RFMOs) in the South Atlantic, Indian and Pacific oceans. Each of these three new RFMOs (considered in detail below) takes CCAMLR's northern boundary (the approximation to the Antarctic Convergence) as their southern boundary. Secondly, there is the growing economic and strategic focus on southern sea lanes and trade routes. This has arisen through global economic growth, including in the Global South (in South, South East and East Asia in particular), with consequential changes in the regional and global order. This includes the associated power projection by emerging global powers, most obviously China and India, alongside (or in competition with) the dominant global power of the United States. Thirdly, we are seeing the transformation of the biophysical reality through the agency of anthropogenic climate change, whereby historic oceanic boundary, circulatory, and ecological verities are in flux.

⁹ Convention for the Conservation of Southern Bluefin Tuna, adopted in Canberra 10 May 1993, entered into force 20 May 1994, 1819 UNTS 359.

These changes mean that the functional area for the management of the area around Antarctica – what I term 'The Greater Southern Ocean' – is now probably better seen as the oceanic area up to around 35° S. Greater precision is probably not possible yet. This is, obviously, a much larger area than that circumscribed by the Antarctic Convergence, and a more complicated jurisdictional space. In the Indian Ocean sector of Antarctica, this translates into a 'South Indian Ocean' starting at 35° S., and continuing down to the coast of the Antarctic continent. At some point (and this could be the Antarctic Convergence, or it could be the Antarctic Treaty Area boundary at 60° S.) the 'Indian' becomes the 'Southern' Ocean. But functionally it is the same space, and it makes sense to have an overall strategic conception and policy in relation to it. Operationally, *how* one operates in this space alters at 60° S., when one enters the Antarctic Treaty Area.

The paper is structured as follows: It opens with a summary of South Asian engagement in the regional institutions providing the international governance architecture in 'The Greater Southern Ocean'; first within the Antarctic Treaty System; then in four RFMOs that manage fisheries in this ocean space – two of which have a particular focus on the South Indian Ocean. The paper then reflects upon the general economic and geopolitical considerations which have driven states to the development of this governance architecture, and follows this with some observations on both the declaratory, and seemingly evident, interests of South Asia – and in particular India – in the ocean space variously understood as the 'South Indian Ocean'. The paper concludes with some brief observations on the options for South Asian states in relation to these matters.

South Asia in the Antarctic Treaty System

In the post World War II period of the late 1940s and 1950s, when the options for addressing what was termed 'the Antarctic Problem' in an international context were first considered, the only

South Asian state that was in a position to give the matter any intellectual attention was India. Prime Minister Jawaharlal Nehru articulated the case for a wider international interest in the region, but post-independence India plainly had to prioritize domestic and near-region policy issues (Chaturvedi, 2013a), and was unable then to either establish an Antarctic presence, participate in the International Geophysical Year programs in Antarctica, persist in its UN engagement in relation to Antarctica (Chaturvedi, 2013b: 54-57), or subsequently break into the narrow group of states (including the Soviet Union) collected together by the United States for the negotiations that led to the adoption of the Antarctic Treaty. Nehru provides perhaps the first true internationalist perspective on Antarctica as a political space, but active Indian engagement took several more decades to eventuate. No other South Asian state has a comparable history of high-level engagement.

Whilst individual Indian scientists participated in the programs of other Antarctic states from the early 1960s, steps towards an autonomous Indian presence only commenced in the 1980s, a decade in Antarctica that saw a 'discursive transformation, especially with respect to its actual and imagined resource endowment' (Chaturvedi, 2013b: 57). India's first expeditionary landing in Antarctica occurred in January 1982. Union-level sign off on the decision to join the Antarctic Treaty occurred in July 1983 and India acceded to the treaty on August 19 1983, and was accorded Consultative Party status on September 12 1983¹⁰ – which is still by far the shortest period between a state acceding to the Antarctic Treaty and gaining the top-tier decision-making status of a Consultative Party. Chaturvedi, Khare and Pandey (2005) provide details of this formative period for India in relation to the Antarctic. In the 1980s the Antarctic Treaty parties were in the

¹⁰Data on accession and Consultative Party status from Antarctic Treaty Secretariat website at http://www.ats.aq/devAS/ats_parties.aspx?lang=e (accessed on July 19, 2016).

midst of contentious Antarctic mineral negotiations and exposed to criticism that they (largely Western states and a minority of the world's states) were appropriating the continent, particularly in the annual 'Question of Antarctica' debates in the United Nations General Assembly. India's accession (and that of other major states in the Global South) during the mid-1980s was argued as evidence that the ATS was an open-access regime. So there were both domestic Indian and external 'demand-side' factors in the precise timing of India's arrival in the ATS. India has operated three main Antarctic stations: the seasonal station *Dakshin Gangotri* (1983), which Indian officials advise is now abandoned, and the two functioning year-round stations *Maitri* (1989), and *Bharati* (2012).¹¹ In 2007 India hosted the Thirtieth annual Antarctic Treaty Consultative Meeting in New Delhi (Secretariat of the Antarctic Treaty, 2007).

The only other South Asian state to accede to the Antarctic Treaty is Pakistan, but this only occurred on 1 March 2012, and Pakistan remains a Non-Consultative Party, and therefore is not involved in decision-making at the Annual Antarctic Treaty Consultative Meetings (ATCMs), although it may attend and participate. Pakistan established a small Antarctic station (*Jinnah*) in 1991, which, with other sites, has since been only sporadically operated during the summer.

Both India and Pakistan are parties to other component instruments of the ATS. They are the only South Asian states in the ATS. Whilst neither are parties to CCAS, both are parties to the Madrid Protocol (January 14, 1998 and March 31, 2012 respectively). More immediately pertinent is that both India and

¹¹ Data on India's Antarctic stations from Council of Managers of National Antarctic Programs website at https://www.comnap.aq/Information/SiteAssets/SitePages/Home/Antarctic_Facilities_List_13Feb2014.xls (accessed 19 July 2016).

¹² Data on CCAMLR acceptance (India) and accession (Pakistan) from the Depository Government (Australia) website at http://www.austlii.edu.au/au/other/dfat/treaty_list/depositary/CCAMLR.html (accessed on 19 July 2016).

Pakistan are parties to CCAMLR¹². India is, as in relation to the Antarctic Treaty, a decision-making state – what is termed a Member of the Commission for the Conservation of Antarctic Marine Living Resources, established under Article VII of the Convention. The criterion for this is, in India's case, that it is "engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies."¹³ India has been a Member of the Commission since 1985. Pakistan is, since 2012, an Acceding State to CCAMLR and, in the absence of the required research or harvesting activity, is not a decision-making state.

To summarise this situation: Only two South Asian states are party to ATS instruments: India and Pakistan, which are each parties to the Antarctic Treaty and CCAMLR. India is a decision-making state in relation to both instruments and Pakistan a non decision-making state.

South Asia in the Regional Fisheries Management Organizations Abutting Antarctica

The Convention for the Conservation of Southern Bluefin Tuna (CCSBT)

CCSBT, which has already been mentioned, concerns itself with southern bluefin tuna *Thunnus maccoyii*,¹⁴ across their range. This species is "found throughout the southern hemisphere mainly in waters between 30 and 50 degrees south but only rarely in the eastern Pacific. The only known breeding area is in the Indian Ocean, south-east of Java, Indonesia".¹⁵ Five states are party to the Commission (Australia, Indonesia, Japan, New Zealand and the Republic of Korea). Four other state-level entities (The European

¹³ CCAMLR Article VII, 2(b).

¹⁴ CCSBT Article 1.

¹⁵ 'About Southern Bluefin Tuna' CCSBT website at <https://www.ccsbt.org/en/content/about-southern-bluefin-tuna> (accessed on July 19, 2016).

Union, Fishing Entity of Taiwan, South Africa and the United States) are Observers (Commission for the Conservation of Southern Bluefin Tuna 2015). No South Asian State is engaged with CCSBT.

Three other RFMOs that abut the CCAMLR area have been mentioned above:

The South East Atlantic Fisheries Organisation (SEAFO)

SEAFO, which gives effect to the Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean.¹⁶ There are seven Commission Members.¹⁷ No South Asian state is a party.

The South Pacific Regional Fisheries Management Organisation (SPRFMO)

SPRFMO, which gives effect to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean.¹⁸ There are fourteen Commission Members, and four Cooperating non-Contracting Parties.¹⁹ No South Asian state is a party.

¹⁶ Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean, adopted in Windhoek 20 April 2001, entered into force 13 April 2003, 41(2) ILM 257.

¹⁷ South East Atlantic Fisheries Organisation website at <http://www.seafo.org/About/Contracting-Parties> (accessed 19 July 2016).

¹⁸ Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean, adopted in Wellington 14 November 2009, entered into force 24 August 2012, ATS 28.

¹⁹ South Pacific Regional Fisheries Management Organisation website at <http://www.sprfmo.int/> (accessed 19 July 2016).

The Southern Indian Ocean Fisheries Agreement (SIOFA)

SIOFA,²⁰ has eight Commission Members (Australia, Cook Islands, European Union, France, Japan, Republic of Korea, and two Indian Ocean states: Mauritius and the Seychelles).²¹ Again, no South Asian state is a party. SIOFA's area of application (Figure 2) is defined in Article 3 of the Convention:

Commencing at the landfall on the continent of Africa of the parallel of 10° North; from there east along that parallel to its intersection with the meridian of 65° East; from there south

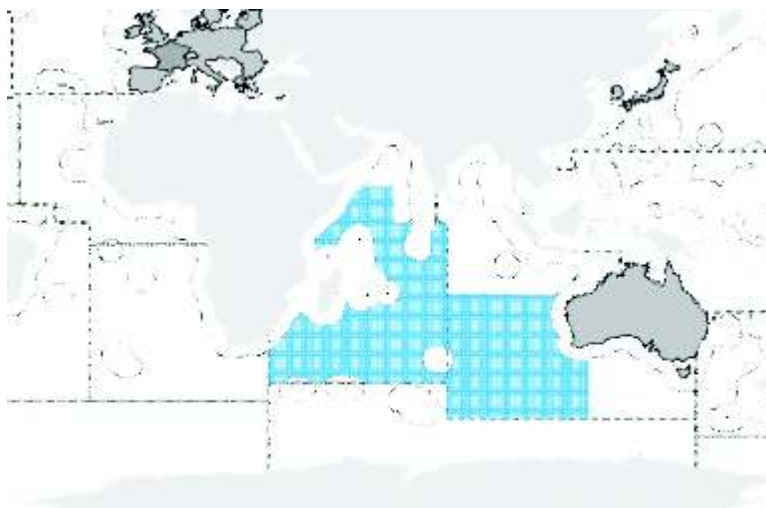


Figure 2: The SIOFA Area

Source: FAO, *Regional Fishery Bodies Summary Descriptions, South Indian Ocean Fisheries Agreement*, <http://www.fao.org/fishery/rfb/siofa/en#Org-OrgsInvolved>

²⁰ Southern Indian Ocean Fisheries Agreement, adopted in Rome 7 July 2006, entered into force 21 June 2012, UNTS Reg. No I-49647.

²¹ Food and Agriculture Organization of the United Nations website at <http://www.fao.org/fishery/rfb/siofa/en#Org-OrgsInvolved> (accessed 19 July 2016).

along that meridian to its intersection with the equator; from there east along the equator to its intersection with the meridian of 80° East; from there south along that meridian to its intersection with the parallel of 20° South; from there east along that parallel to its landfall on the continent of Australia; from there south and then east along the coast of Australia to its intersection with the meridian of 120° East; from there south along that meridian to its intersection with the parallel of 55° South; from there west along that parallel to its intersection with the meridian of 80° East; from there north along that meridian to its intersection with the parallel of 45° South; from there west along that parallel to its intersection with the meridian of 30° East; from there north along that meridian to its landfall on the continent of Africa.

General Economic and Geopolitical Factors Driving South Indian Ocean Institutional Development

The dominant economic activity in the ocean space of the South Indian Ocean, as elsewhere in the circumpolar Greater Southern Ocean, is currently marine harvesting – 'fishing'. Considering the entire circumpolar space, fishing activity is most actively pursued by European (including Russian); East Asian (most notably Japan, South Korea and increasingly China); and (to a lesser extent) South American and Southern African entities. The national identities notionally attached reflect where the economic control of the activity resides. In practice, the vessels may be registered just about anywhere, and whilst the senior officers of the fishing vessels generally come from the states where the activity is economically controlled, crews are now drawn from a global pool and are often from the Global South. Amongst the factors which have contributed to the establishment, and particularly the recent growth, of this fishing activity in higher latitudes are:

1. The continuing effects of the Law of the Sea Convention's establishment of Exclusive Economic Zones (EEZs). What were historically referred to as distant water fishing fleets,

continue to be displaced into areas beyond national jurisdiction;

2. Overfishing in traditional/historic fishing grounds, which has depleted particular stocks and drives the fishing industry to seek new stocks further afield;
3. Increased demand for fish and fish products, in part generated by the emergence of new wealth and consumer communities, including in the Global South;
4. Technological enablement, which means that previously remote and severe ocean areas may now be more readily accessed and fished; and
5. Perhaps the geopolitically perceived need for states to demonstrate presence and acquire or retain influence in areas that may be seen as strategically significant.

The institutional architecture that is most developed relates precisely to the management of fishing. For the South Indian Ocean this comprises successive 'shells' provided by CCAMLR, CCSBT and SIOFA. These provide a Southern Ocean / South Indian Ocean fisheries regime from the shores of the Antarctic continent at approximately 66° S. up to (at its furthest north) 10° N., and across the entire width of the South Indian Ocean from the coast of Africa to the coast of Australia. This is a massive area. Only three states: Australia, Japan and the Republic of Korea, are parties to all three instruments; but France and the European Union are party to CCAMLR and SIOFA. This pattern is of itself perhaps not surprising. Japan and South Korea are global fishing states, with active participation in most RFMOs. Australia is an Indian Ocean littoral state, with its metropolitan territory to the east, a subantarctic island territory in the Heard and MacDonald Islands in the South Indian Ocean, and a generally unrecognised Antarctic territorial claim to the extreme south of the area in question. France possesses four island territories in the South Indian Ocean, comprising subantarctic Crozet and Kerguelen and the Amsterdam and St Paul archipelagos. These, plus the French

Antarctic claim (which is south of Tasmania and thus not within the Indian Ocean sector considered here) are administered by France as the *Terres Australes et Antarctiques Françaises* (Aldrich and Connell, 1992: 51). For 'territorial' states such as Australia and France, the involvement in fishing activity in areas relatively proximate to their EEZs is a factor. So too is their 'strategic' interest in these areas, which have long been within the policy and security purviews of their governments. The EU, through the Common Fisheries Policy,²² is the primary voice of Europe in global fisheries bodies, although France and the United Kingdom have autonomy in relation to their vestigial colonial possessions,²³ and may explain the non-participation of key fishing states such as Spain as separate parties.

In the longer term – and over what time horizon this might eventuate is presently unclear – deep seabed mining and biological prospecting (the latter potentially through the water column, seamounts and the deep seabed) are further possible activities in the region. A discussion of the complexities of ocean management, and the variety of challenges in this environment, is beyond the scope of this paper (but see Smith, Suárez de Vivero and Agardy, 2015). It is not unreasonable to see, even in the best of situations, that oceans management in the South Indian Ocean is likely to involve more issues and thus to become more complex.

Immediate conventional 'security' interests in these oceanic areas may not be particularly acute at the present time (and this may be one region of relatively low concern about 'terrorism'), but the enduring strategic attention to sea lines of communications and control means that for major powers this is also likely to be a matter of interest in even the higher latitudes of the South Indian Ocean. The extent to which the greater regional or global security situation

²²Details of the Common Fisheries Policy available at the European Commission website at http://ec.europa.eu/fisheries/cfp/index_en.htm (accessed on 19 July 2016).

²³Plainly the situation of the UK will change as a result of its decision to leave the EU.

ebbs and flows (the 'West' vs China, the US vs China, India vs China, etc.), and how both the present and potential economic interests actually develop in the South Indian Ocean over the next several decades, will determine the level of security concern in the south. For example, a decision (or even a sense that this is a possibility) to look at mineral resource activities in Antarctica, through an ending of the mining prohibition that is presently in place sometime after the middle of this century, might appreciably affect states' judgements about engagement in the South Indian Ocean more generally. From a contemporary perspective, hydrocarbons (oil and gas) from sedimentary basins beneath, or offshore, Antarctica appear the most likely incentive to revisit the minerals prohibition. But high value minerals known to be present on the continent, such as platinum-group metals (if accessible and in commercially viable quantities) or polymetallic nodules on the deep seabed (subject to the International Seabed Authority,²⁴ in addition to whatever authority the ATS may assert and thus presenting complex jurisdictional issues) might also stimulate reassessment. However, the process for overturning the present open-ended minerals prohibition is complex and may not readily be achieved (see the detailed discussion on the issues in Gilbert and Hemmings, 2015).

Similarly, and perhaps more readily, were the coastal states exercising sovereignty over the various subantarctic islands mentioned above to initiate or licence major commercial activities (or establish military facilities) on these islands, this too might alter the calculations. None of this is presently on the horizon, but assessments beyond a decade ahead are notoriously difficult. The substantive question may be whether it is reasonable to suppose that there will be no further instruments negotiated in the South Indian Ocean. The present author's assumption is that this is unlikely.

²⁴Polymetallic nodules are explained at the International Seabed Authority website at <https://www.isa.org.jm/files/documents/EN/Brochures/ENG7.pdf> (accessed on August 4, 2016).

The Apparent Interests of South Asia in the South India Ocean

To an outsider – and as an Anglo scholar located within an Australian-New Zealand-United Kingdom tradition of enquiry, notwithstanding a cosmopolitan inclination, the present author is plainly such – there are two immediately striking aspects to the present South Asian engagement with the South Indian Ocean considered here. Firstly, that South Asia, and most particularly its largest and most advanced state, India, are so slightly engaged with the existing instruments addressing marine harvesting to its immediate south. Secondly, and again particularly in relation to India, that there appears such a mismatch between the declaratory focus amongst Indian foreign policy elites on the South Indian Ocean and the state's actual operational engagement in those international forums that now exist. A subsidiary point in relation to these observations is that the forums that are in existence are both at the relatively 'easy' end of international relations and only recently elaborated. They are 'easy' because they relate to resource and environmental management well away from the metropolitan territories of the participating states (rather than, say, use of shared waterways or issues of territory), the activity levels are still relatively low in global resource-issue terms, and we are near the commencement point for the activities that we are seeking to manage (so there are fewer entrenched positions). The participation costs do not appear to be high, in terms of staffing, skills-base, time and cost; nor do the risks of error appear to pose such frightening costs that great caution and consideration is called for before joining the fray.

Prime Minister Indira Gandhi observed that 'The Indian Ocean links India to Antarctica. The entire area is of deep interest to us, and ocean studies are of vital importance' (quoted in Dey, 1992: 177). What Sanjay Chaturvedi has termed 'the Indian Ocean dimension of India's Antarctic engagement' has continued ever since (Chaturvedi, 2013b: 62-64). So it seems surprising that India at least has not involved itself in SIOFA, an RFMO that bridges the ocean space between CCAMLR (where India is a Commission Member) and the waters immediately south of India itself.

Whilst joining the ATS took India into a regime, rather than just into the Antarctic Treaty (notwithstanding that acceding to that treaty was the necessary first step), and joining SIOFA would plainly be a more limited initiative, one might enquire whether it would deliver some of the same benefits that the Government of India itself identified in Parliament in August 1983 in relation to joining the Antarctic system. In Anita Dey's phrasing:

- (a) India would be able to exchange scientific information with other members ... thereby enhanc[ing] its analytical capabilities; (b) ... project effectively its own views ... and (c) ... be able to participate in the ongoing discussion on the resources of Antarctica and ensure that any regime that might be set up there would be in harmony with its overall policies and objectives (Dey, 1992: 177).

Not only does this nicely capture the benefits that most states would likely argue in relation to joining the ATS, it essentially states the advantages and purposes for joining *any* international instrument and/or institution. To that extent, precisely these arguments could surely be mobilized in relation to joining SIOFA, or any of the other RFMOs now surrounding the CCAMLR area.

One question that arises may be quite what is meant, in different policy discourses, by the term 'South Indian Ocean'. Clearly, at least some of the proponents of an Indian strategic policy in the Indian Ocean have a conception of that area as including the South Indian Ocean considered in this paper. Thus, Bharat Karnad has recently argued for India to be the:

premier power in the 'strategic quadrant' encompassed by the East African littoral and the Caspian Sea in the west, the Sunda Strait and western Australian coast in the eastern and southeastern reaches of the Indian Ocean, the central Asian Republics in the north and the waters up to Antarctica in the south (Karnad, 2015: 15).

Presumably the same author has this area in mind when he cites correspondence with Vice Admiral (Retd) Ganesh identifying

'Future strategic tasks ... in more remote areas such as the southern Indian Ocean trade routes ...' (Karnad, 2015: 340), but this is not entirely clear. Similarly, President Pranab Mukherjee has stated that:

The primary area of Indian maritime interest ranges from the Persian Gulf in the north, to Antarctica in the south, and from the Cape of Good Hope and the East coast of Africa in the west, to the Straits of Malacca and the archipelagos of Malaysia and Indonesia in the east (in Scott, 2015: 468).

However, the terms 'South Indian Ocean' or seeming analogues such as 'southern Indian Ocean', whilst regularly used in Indian strategic and policy writing, are rarely unambiguously defined. Thus, the 'Southern Indian Ocean Region, including Antarctica' is identified as one of 'India's secondary areas of maritime interest' in the Indian Maritime Doctrine (Indian Navy, 2016: 68). The Doctrine also reports that:

The International Seabed Authority (ISA) has accorded pioneer investor status to India of 75,000 sq km of the seabed in the southern Indian Ocean. Advances in technology are expected to enable deep sea mining, whereupon India may be able to harness its own seabed resources, including minerals and hydrocarbons. (Indian Navy, 2016: 64)

But in neither case is the actual area constituting the 'Southern Indian Ocean' specified.

Indeed, the presumably broader term 'Indian Ocean' is rarely operationally defined either. A gap is evident between what may be a reasonably clear as a geographical area (the Indian Ocean) and exactly what is intended when it comes to applying Indian strategic doctrine or strategy to this oceanic space. Some sort of boundary is provided by Antarctica to the south (in the case of the Indian Maritime Doctrine it appears to be set at 60° S.); the Indian Ocean is manifestly a focus of Indian strategic interest; but where the South Indian Ocean ends and Antarctica begins is often unclear. Indeed, the *Oxford Handbook of Indian Foreign Policy* does

not even include 'South', or 'southern Indian Ocean' in its index. And so, for a strategic discourse invariably orientated around the Indian Ocean, one is left uncertain about what exactly is meant by *South* Indian Ocean. These are not slight issues. Clarity about them is critical at multiple levels. First, in relation to ensuring compliance with international obligations. The Antarctic Treaty Area (south of 60° S.) is an area formally demilitarised; and a practice has evolved of not ordinarily deploying active naval vessels ('grey hulls') within the area. So, to the degree that 'South Indian Ocean' may include areas south of 60° S., this is one consideration there. Second, in relation to actually thinking about how one functions – or exercises influence – in a particular locality. It may be that influence is not about presence on the sea at all (or not *only* about presence) but about participation in active politico-legal forums concerned with the area in question. And in order to do that, one has to specify the geographical or topical space. And finally, a strategic focus (and this does not necessarily mean a military focus) generally requires a multi-faceted approach.

If this is true for India, it is even more the case with the other South Asian states, for which no publicly available statement of an overall Indian Ocean policy or strategy is available. This is not to suggest that these states do not have particular concerns in the region. There have, for example, been reports that Pakistan is considering promoting the Indian Ocean as a nuclear-free zone (*Dawn*, 2016). None of this is to suggest that it is necessary (far less a good idea) for conceptions of the Indian Ocean, or the South Indian Ocean, to be securitized (*Economic & Political Weekly*, 2015). This is certainly not the present author's argument. If one takes the experience of the Antarctic area, the success of the collaborative international project there has been in no small degree due to the demilitarization of the region and the development of the ATS regime in the context of 'peaceful purposes'. What may be lacking here is a thorough regional strategic conception, in its broadest sense. Is this just a minor technical/administrative failing, which can be easily rectified; or is it better explained by what Sanjay Chaturvedi has called India's '[lack] of a strategic culture'?

(Chaturvedi, 2013b: 50)? For an outsider this is very hard to determine, but it may warrant further attention by social science scholars in South Asia.

Concluding Observations: Options for South Asia

The present author sees a new geopolitical space emerging in the circumpolar oceans around Antarctica, including in the South Indian Ocean sector. This 'Greater Southern Ocean' region, no longer strictly bounded by the Antarctic Convergence, appears to be emerging as a new critical functional unit in terms of international governance. Whilst presently largely about fishing regulation, that activity alone is burgeoning and seems unlikely to represent the end point of economic (and thus strategic and geopolitical) interest in the region. Without wishing to be alarmist, the South Indian Ocean may be one of the more acute sectors of this new 'frontier' in oceanic resource and environmental aspiration.

Is South Asia happy to leave this space to be shaped – not only in relation to the activities, but the international regulatory structures – by other states? If the Indian Ocean remains a meaningful region for South Asia (and surely it does), then does it not have a vital interest in a more active participation in such instruments as presently exist – and in those that may yet be to come?

An obvious, and of itself not particularly onerous, option is for India (and some other South Asian states) to become parties to at least SIOFA, and perhaps the other RFMOs considered here. An obvious enquiry for scholars is why India has *not* already become a party. But, of itself, joining would alter only the appearance of the situation. The critical requirement (and there is nothing peculiar to the states of South Asia in this respect) is to engage in a manner and at a level that effects *influence* within the institutions one has joined.²⁵ For these separate instruments and institutions need not only to work individually but with each other if we are to most

effectively and efficiently to manage a huge oceanic space such as the South Indian Ocean in our common interests.

Consideration of what that might entail, of what policy the state pursues and the manner in which it does so, with all the questions of agency engagement that this entails in a modern national polity, are questions not only for another place, but for considered analysis by social sciences scholars in South Asia.

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²⁵ An examination of Indian engagement and influence within the Antarctic Treaty System may provide some insights. Some preliminary information is available in Dudeney and Walton (2012).

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